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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/667,753	09/22/2003	Carl Wang	I-2-0398.1US	1377
24374	7590	10/03/2007	EXAMINER	
VOLPE AND KOENIG, P.C.			SMITH, MARCUS	
DEPT. ICC			ART UNIT	
UNITED PLAZA, SUITE 1600			PAPER NUMBER	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/667,753

Applicant(s)

WANG ET AL.

Examiner

Marcus R. Smith

Art Unit

2616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 July 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,7-9,18,20 and 26-28 is/are rejected.
- 7) ☒ Claim(s) 2-6,10-17,19 and 21-25 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 7/25/07.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 7-9, 18, 20, and 26-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Okumura (US 6,944,468) in view of Petersson (US 6,567,670).

with regard to claims 1, 7, and 18:

(Okumura teaches: see figure 5)

In a wireless communication system wherein data is transmitted in blocks over a communication channel during successive time intervals of a specified size and block error rate (BLER) information of the reception of the data blocks on the communication channel is reported for use in controlling channel transmissions, a method for block error rate (BLER) estimate reporting, comprising:

receiving the communication channel and for each of a series of successive time intervals (see figure 5, step s8: the process is repeated until the mobile unit stops communicating with base station):

counting the number of data blocks received over the time interval (step s5: column 6, lines 45-53);

storing a value *i* representative of the number of data blocks received (column 6, lines 45-53: it would be stored in the counter);

performing error checking on the data blocks received (step s3: column 6, lines 40-50);

storing a value $S(i)$ representative of the number of data blocks having errors (step s4: column 6, lines 45-53);

comparing value i to a first predetermined threshold to produce a first BLER estimate report trigger when i exceeds the threshold (step 6, column 6, lines 53-63);

calculating a BLER estimate based on the values i and $S(i)$ (step s7: column 7, lines 1-15);

and

sending a BLER estimate report in response to the production of the first or second report triggers; whereby no report is sent when the first or second triggers are not produced (step s7: column 7, lines 1-15).

Okumura discloses all of the subject matter as described above except for comparing the BLER estimate to a predetermined multiple of a target BLER value for the channel to produce a second BLER estimate report trigger when the BLER estimate exceeds the a predetermined multiple of the target BLER value.

Petersson's background (see figure 5c) teaches radio network controller or mobile node to measure FER or BLER (BLER estimate: step P1) and comparing the BLER to the BLER target (P2). From the comparison, the nodes sends SIR target (BLER report) in order to adjust transmission power in system (column 5, lines 5-45)

Therefore it would have been obvious to one having ordinary skill in the art at the time invention was made to comparing BLER estimate to BLER target as taught in

Petersson's background in the system of Okumura in order to have stepwise adjustment power controller for more efficiency. Also Petersson and Okumura combination shows how the mobile node can use Frame error rate and block error rate, thus the figure 5 in Okumura could calculate BLER instead of FER.

with regard to claim 8:

The method of claim 7 wherein the BLER reporting occurs during a steady state phase of a call session between two entities of the communication system, wherein said steps are repeated to the extent possible, during the call session in entirety (column 7, lines 35-40).

with regard to claim 9:

The method of claim 7 wherein step (f) further comprises a first predetermined threshold based on a minimum number of data blocks to calculate cyclic redundancy error check on the data blocks (column 7, lines 15-21).

with regard to claim 20, see Petersson's background (see figure 1):

A radio network controller for a 3GPP system including the receiver according to claim 18 (column 2, lines 7-15).

with regard to claims 26 (see figure 6):

The invention of claim 18 wherein the processor is further configured to compare the BLER estimate to a first predetermined threshold of a k multiple of the target BLER to produce at least one report trigger, wherein $k > 1$ (step s19: column 7, lines 60-67).

with regard to claims 27 (see figure 6):

The invention of claim 18 wherein the processor is further configured to compare the BLER estimate to a second predetermined threshold of an alpha multiple of the target BLER to produce at least one report trigger, wherein $\alpha=1$ (step s17: column 7, lines 60-65) .

with regard to claims 28 (see figure 6):

The invention of claim 18 wherein the processor is further configured to compare the BLER estimate to a third predetermined threshold of a gamma multiple of the target BLER to produce at least one report trigger, wherein $\gamma < 1$ (step 21: column 8, lines 5-19).

Allowable Subject Matter

3. Claims 2-6, 10-17, 19, and 21-25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

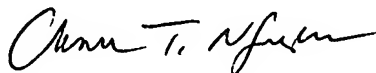
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marcus R. Smith whose telephone number is 571 270 1096. The examiner can normally be reached on Mon-Fri. 7:30 am - 5:00 pm every other Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chau Nguyen can be reached on 571 272-3126. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MRS 9/27/07



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